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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Draft guidelines for States on the effective implementation of the right to participate in public affairs

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present draft guidelines, submitted to the Human Rights Council pursuant to its resolution 33/22, provide a set of orientations for States on the effective implementation of the right to participate in public affairs. The draft guidelines refer to a number of basic principles that should guide the effective implementation of the right to participate in public affairs. Various dimensions of that right are covered, with a focus on participation in electoral processes, in non-electoral contexts and at the international level, and recommendations have been formulated.

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I. Introduction

1. Participation enables the advancement of all human rights. It plays a crucial role in the promotion of democracy, the rule of law, social inclusion and economic development. It is essential for reducing inequalities and social conflict. It is also important for empowering individuals and groups, and is one of the core elements of human rights-based approaches aimed at eliminating marginalization and discrimination.

2. While the responsibility and accountability for taking decisions ultimately rests with public authorities, the participation of various sectors of society allows the authorities to deepen their understanding of specific issues; helps to identify gaps, as well as available policy and legislative options and their impact on specific individuals and groups; and balances conflicting interests. As a consequence, decision-making is more informed and sustainable, and public institutions are more effective, accountable and transparent. This in turn enhances the legitimacy of States' decisions and their ownership by all members of society.

3. The Human Rights Council has dedicated increasing attention to the issue of equal participation in political and public affairs.[1] In its resolution 33/22 on equal participation in political and public affairs, the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare concise and action-oriented draft guidelines as a set of orientations for States on the effective implementation of the right to participate in public affairs, as set out in article 25 of the International Covenant on Civil and Political Rights and as further elaborated on in other relevant provisions under international human rights law, and to present the draft guidelines to the Council at its thirty-ninth session. The Council also requested OHCHR to facilitate open, transparent and inclusive elaboration of the draft guidelines, including through informal consultations with States and other stakeholders at the regional level.

4. Consequently, OHCHR organized five informal regional consultations and issued two calls for submissions that generated responses from 65 stakeholders.[2] The process enabled the development of the present draft guidelines, which are grounded in the inputs received during the consultation process and informed by the examples of best practices gathered in that context.

5. Article 25 of the International Covenant on Civil and Political Rights recognizes the right to participate in public affairs, including the following three elements: (a) the right to take part in the conduct of public affairs; (b) the right to vote and to be elected; and (c) the right to have access to public service.

6. The draft guidelines start with references to a number of basic principles and elements that, in accordance with international human rights law, should guide the effective implementation of the right to participate in public affairs. The next focus is on the right to vote and to be elected, the right to take part in the conduct of public affairs and participation at the supranational level, including within international organizations.

7. In the light of the broad scope of the draft guidelines and due to the word limit, the draft guidelines are neither comprehensive nor able to address all aspects of the right to participate, such as the right to have access on general terms of equality to public service positions; similarly, the references to situations pertaining to the participation of specific individuals and groups that may face discrimination are not exhaustive. States are encouraged to develop further guidance at the national level in relation to the participation of individuals and groups that are marginalized or discriminated against, with a systematic integration of a gender perspective.

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[1] See Council resolutions 24/8, 27/24 and 30/9. See also A/HRC/27/29, A/HRC/30/26 and A/HRC/33/25.

[2] Information on the consultation process and the submissions received are available at www.ohchr.org/participationguidelines.

8. It should be stated at the outset that meaningful participation requires a long-term commitment by public authorities, together with their genuine political will, an emphasis on agency and a shift in mindset regarding the way of doing things. To assist States in making this shift, the draft guidelines provide "a set of orientations" for how States should effectively implement the right to participate in public affairs, as requested by the Human Rights Council in its resolution 33/22. In the draft guidelines, it is recognized that civil society actors, including the media, can contribute to States' efforts to implement the recommendations contained herein.

9. The present draft guidelines refer, when appropriate, to "rights holders". This term seems more apt than others to include forms of participation, encompassing initiatives that involve all individuals affected or concerned by the decisions at stake.

10. In the draft guidelines, it is stressed that information and communications technologies (ICTs) offer new tools for participation, expanding the space for civic engagement, and have the potential to promote more responsible and accountable governments. ICTs are complementary to traditional forms of participation as they create additional opportunities for equal and meaningful participation. The draft guidelines also recognize that, nevertheless, ICTs could negatively affect participation, for example when disinformation and propaganda are spread through ICTs to mislead a population or to interfere with the right to seek and receive, and to impart, information and ideas of all kinds, regardless of frontiers.

11. The draft guidelines may contribute to the effective implementation of the Sustainable Development Goals in all regions. In fact, the 2030 Agenda for Sustainable Development places particular emphasis on the promotion and protection of participation of all members of society in public affairs, in particular with its goal 16, which includes targets to ensure responsive, inclusive, participatory and representative decision-making at all levels (target 16.7) and to ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements (target 16.10). Beyond Goal 16, the implementation and monitoring of the 2030 Agenda as a whole rests on the meaningful participation of all actors in society, in particular those most at risk of discrimination and of being left behind.

12. States are encouraged to translate the draft guidelines into local languages, to disseminate them widely, including to local authorities, and to make them available in accessible formats. The recommendations contained in the present draft guidelines should be turned into context-appropriate measures that comply with international human rights norms and standards.

13. Nothing in the draft guidelines should be interpreted as affording a lesser degree of protection to the right to participate in public affairs and other human rights than that provided under existing national laws and regulations and applicable international and regional human rights norms and standards.

II. Basic principles underpinning the effective implementation of the right to participate in public affairs

14. The right to participate in public affairs cannot be considered in a vacuum. The effective exercise of this right requires an environment where all human rights, in particular the rights to equality and non-discrimination, to freedom of opinion and expression and to freedom of peaceful assembly and of association, are fully respected and enjoyed by all individuals.

15. The right to participate in public affairs is closely linked to the full realization of the right of access to information, which, as part of the right to freedom of expression, is an enabler of participation and a prerequisite that ensures the openness and transparency of, and accountability for, States' decisions.

16. The right to participate in public affairs requires that the life, physical integrity, liberty, security and privacy of all members of society, including journalists and human rights defenders, be protected at all times.

17. Moreover, the right to participate requires an environment that values and takes into account the work and contribution of all members of society, supports and encourages their engagement and ensures that they are empowered and equipped with the knowledge and capacity necessary to claim and exercise their rights.

18. The following recommendations set out basic principles and related requirements that are among the minimum essential conditions for the effective exercise of the right to participate in public affairs.

Practical recommendations

19. **States should create and maintain a safe and enabling environment that is conducive to the exercise of the right to participate in public affairs.**

(a) **States should create the legal framework for giving effect to the right to participate in public affairs by taking the steps necessary to accede to or ratify relevant international and regional human rights treaties, and accept related individual communications procedures. States should ensure that those treaties are adequately incorporated in national laws, policies and practices;**

(b) **The equal right to participate in public affairs should be recognized, protected and implemented in national constitutions and legal frameworks;**

(c) **Laws, policies and institutional arrangements should ensure the equal participation of individuals and groups in the design, implementation and evaluation of any law, regulation, policy, programme or strategy affecting them. Effective remedies should be available if this right is violated;**[3]

(d) **States should ensure that relevant rights, in particular the right to freedom of opinion and expression, including the right of access to information, and the rights to freedom of peaceful assembly and of association are protected and implemented in national legal frameworks. Effective remedies should be available if those rights are violated;**

(e) **The legitimate and vital role of civil society actors regarding participation in public affairs should be recognized. The independence and pluralism of such actors should be respected, protected and supported, and States should not impose undue restrictions on their ability to access funding from domestic, foreign or international sources;**

(f) **States should encourage and create the conditions for an independent and diverse media. They should enact legislation that promotes and protects the freedom of the media, encourages pluralistic media services and ensures the safety of journalists and other media workers, both offline and online;**

(g) **States should protect civil society actors, including human rights defenders and journalists, in particular women human rights defenders and women journalists, from all threats, attacks, reprisals and acts of intimidation, including against them or their family members, associates and legal representatives, whether offline or online. Such acts should be promptly, thoroughly and impartially investigated, perpetrators brought to justice, and effective remedies provided. In this context, States should exercise due diligence in preventing abuse committed by non-State actors;**

(h) **The right to participate in public affairs should be recognized as a continuum that requires open and honest interaction between public authorities and all members of society, including those most at risk of being marginalized or discriminated against, and should be facilitated continuously. In this context, collaboration with civil society actors for the identification and articulation of gaps, needs and solutions is crucial. Measures should be taken to build mutual respect, understanding and trust between public authorities and civil society actors.**

[3] See para. 21 below.

20. States should recognize, protect and implement the rights to equality and non-discrimination, and ensure inclusiveness in the exercise of the right to participate in public affairs.

(a) States should protect the rights to equality and non-discrimination and prohibit all forms of discrimination in their national constitution and legal frameworks;

(b) States should adopt and implement laws, policies and programmes that combat discrimination, including multiple and intersecting forms of discrimination, in public and private life, online and offline;

(c) The adverse impact of discrimination, including multiple and intersecting forms of discrimination, on the effective exercise of the right to participate in public affairs should be recognized, in particular for women and girls, young people, persons with disabilities, indigenous peoples, older persons, persons belonging to minority groups, persons with albinism, lesbian, gay, bisexual, transgender and intersex persons and other groups that are discriminated against;

(d) Adequate representation of the diversity within societies should be reflected, as appropriate, in State institutions and governmental bodies;

(e) The necessary legislative and policy measures, including temporary special measures, and institutional arrangements should be identified and adopted to promote and ensure equal participation of individuals and groups that are marginalized or discriminated against, at all levels of decision-making processes and institutions. Such measures should be continuously re-examined and evaluated to ensure equal participation and adequate representation of such groups in practice. Particular attention should be given to gender balance in public institutions;

(f) When designing and implementing measures to strengthen equal participation, it should be taken into consideration that groups that are marginalized or discriminated against may be highly heterogeneous and, within them, individuals do not all necessarily have the same needs or face the same challenges;

(g) States should consult with indigenous peoples, and respect and give effect in practice to their right to free, prior and informed consent, when adopting or implementing measures that may affect them. Consent should be sought through indigenous peoples' own representative institutions in accordance with their customary laws and practices, and through procedures determined by indigenous peoples themselves;

(h) The collection of disaggregated data and production of evidence-based research on participation in political and public affairs should be supported as an important element for the identification and development of adequate and effective measures to strengthen the participation of individuals and groups that are marginalized or discriminated against.

21. States should ensure equal and effective access to justice and effective remedies for violations of the right to participate in public affairs.

(a) All rights holders should have access to competent judicial, administrative or legislative authorities, or any other competent authority provided for by the legal system of the State, to have their right to remedy determined for violations of the right to participate in public affairs. All civil society actors, including civil society organizations, must be able to access justice. Gender-specific barriers preventing women and girls from accessing justice should be recognized and addressed;

(b) Procedures to access justice and other redress mechanisms should be fair, equitable, timely, gender-sensitive and affordable. The establishment of appropriate and effective assistance mechanisms, including legal aid, should be considered in order to remove or reduce financial and other barriers to access to review procedures, especially for individuals and groups that are marginalized or discriminated against, in particular women and girls;

(c) States should provide redress mechanisms for adequate, effective and prompt remedies, including gender-sensitive, victim-centred and transformative reparations, for violations of the right to participate in public affairs. States should ensure the timely and effective enforcement of decisions taken by courts of law or any other relevant independent and impartial bodies. Such decisions should be publicly accessible;

(d) Adequate and accessible information should be provided to rights holders regarding available processes and procedures for access to justice and redress mechanisms, including when the free, prior and informed consent of indigenous peoples has not been sought or obtained;

(e) Capacity-building and training programmes in international human rights law for members of the judiciary and other legal professionals, in particular regarding the right to participate in public affairs, should be promoted and facilitated on a regular basis. Such programmes should integrate a gender perspective;

(f) States should establish and support the functioning of national human rights institutions in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

(g) National human rights institutions should have the mandate and resources to receive complaints and to monitor, report and act on violations of all aspects of the right to participate in public affairs, particularly of individuals and groups that are marginalized or discriminated against.

22. States should guarantee and give effect to the right of access to information.

(a) States should recognize, protect and implement the right of access to information in their national constitutions and legal frameworks;

(b) Laws and regulations on the right of access to information should comply with international human rights law, in particular by incorporating, at minimum, the following elements:

(i) Maximum, regular and proactive disclosure of all information of public interest held by public authorities, and a presumption in favour of access;

(ii) Any limitations should comply with international human rights law;

(iii) Procedures to request information of public interest should be free of charge or available at reasonable cost, allow for fair and rapid processing and include mechanisms for independent review in cases of refusal;

(iv) Protection for individuals who disclose information that they reasonably believe, at the time of disclosure, to be true and to constitute a threat or harm to a specified public interest (whistle-blowers) against legal, administrative or disciplinary sanctions;

(c) States should facilitate access to information, particularly for individuals and groups that are marginalized or discriminated against. This may include establishing procedures for the provision of assistance, from formulation of requests for information through to their delivery, for the purpose of promoting equal access to information;

(d) An independent and impartial oversight mechanism should be established and able to monitor and report on the implementation of the right of access to information. The reports of such mechanism should be public.

23. States should promote the principles of openness and transparency in all aspects of decision-making processes, and of accountability of public authorities for the implementation of the right to participate in public affairs.

(a) Openness, transparency and accountability should be ensured at all stages of decision-making by public authorities, from initial planning to budgeting, implementation, monitoring and evaluation;

(b) States should create effective mechanisms to ensure the accountability of non-State actors, including business enterprises, involved in the development and implementation of public policy and other public decisions;

(c) States should promote and commit to a culture of openness and transparency and consider, where applicable, joining the Open Government Partnership, an international network committed to making governments more open, accountable and responsive to the public.

24. States should empower rights holders to effectively exercise the right to participate in public affairs.

(a) Civic education programmes should be developed and implemented as an integral part of school curricula, in both public and private institutions. Such programmes should be aimed at empowering rights holders, promoting a culture of participation and building agency within local communities;

(b) Civic education programmes should include knowledge of human rights, the importance of participation for society, and an understanding of the electoral and political system and of various opportunities for participation, including available legislative, policy and institutional frameworks;

(c) Targeted capacity-building and civic education programmes should be provided for individuals and groups that are marginalized or discriminated against, and should take into account specific challenges, such as illiteracy and language and cultural barriers, in order to empower them to be active participants in public life. This includes the adoption of measures promoting the engagement and collaboration of all relevant civil society actors, including the media, and community and religious leaders, to bring about a shift in the norms and values restricting the exercise of the right to participate in public affairs, especially for women.

III. Dimensions of the right to participate in public affairs: forms and levels of participation

A. Participation in elections

25. Article 21 of the Universal Declaration of Human Rights highlights the role of periodic and genuine elections in ensuring that everyone is able to participate in the public affairs of his or her country. Article 25 (b) of the International Covenant on Civil and Political Rights provides citizens with the right and the opportunity to vote and to be elected at genuine periodic elections which are to be by universal and equal suffrage and are to be held by secret ballot, guaranteeing the free expression of the will of the electors. Elections lie at the heart of democracy, and remain the primary means through which individuals exercise their right to participate in public affairs.

26. In addition to allowing rights holders to take part in the conduct of public affairs as voters or candidates for election, thereby permitting participation through chosen representatives, certain electoral processes enable direct participation, as in the case of referendums. Genuine electoral processes are also essential to ensure accountability of representatives for the exercise of the legislative or executive powers.

27. International law does not impose any particular electoral system and there is no "one size fits all" model or solution to guarantee successful electoral processes. States enjoy a large margin of appreciation in this context. However, genuine elections should be held in an environment of general respect for and the enjoyment of human rights, on an ongoing basis, without discrimination and without arbitrary or unreasonable restrictions.

28. ICTs may provide tools to improve participation in elections and enhance their transparency. States considering the introduction of technological innovations in order to improve participation in electoral processes should do so only after broad outreach and consultations with all stakeholders, as well as comprehensive and consultative feasibility

studies, have been conducted. Digital innovations may be best introduced as a solution to problems that might hinder the credibility of the process or the acceptance of results, not as an end in itself.

29. The following recommendations should contribute to addressing the obstacles some individuals and groups, in particular women, facing discrimination or marginalization may encounter in the exercise of their right to vote and to stand for election and to ensuring more inclusive electoral processes.

Practical recommendations

30. States should develop an effective legal framework for the exercise of electoral rights, including with respect to the electoral system and electoral dispute mechanisms, in compliance with their international human rights obligations and through a non-discriminatory, transparent, gender-responsive and participatory process.

31. States should take proactive measures to strengthen the representation and equal participation of women, and groups that are discriminated against, in electoral processes. These include the following:

(a) Where such measures can be shown to be necessary and appropriate, States should introduce and effectively implement quota systems and reserved seats in elected bodies for women and underrepresented groups, after an in-depth assessment of the potential value of different kinds of temporary special measures, including of their possible impact in the particular local context and of potential, unintended side effects;

(b) When appropriate, States should adopt other temporary special measures to increase the participation of women, including: training programmes that build their capacity to be candidates; adjustments to campaign finance regulations that level the playing field for women candidates; financial incentives for political parties that achieve preset targets for gender-balance among their nominated or elected candidates; and parental health programmes supporting women's participation in public and private life;

(c) When binding quotas or reserved seats are introduced, effective and transparent mechanisms for monitoring compliance and the imposition of sanctions for non-compliance should be envisaged.

32. Any legal or policy measure to increase the representation of women and groups that are discriminated against should be accompanied by initiatives to challenge discriminatory attitudes and practices, including harmful gender stereotypes, and negative assumptions around the capacity of women, young people, minorities and persons with disabilities to contribute to public affairs.

33. Training for journalists and other media workers should be promoted in order to challenge gender stereotyping and misrepresentation of women in the media, and to sensitize the media and the electorate on the need and benefits of women in leadership positions.

34. Public-service broadcasting and media regulations should provide for equitable opportunity for all candidates to have access to significant airtime and space in the public media during electoral campaigns.

35. Within the confines of their electoral systems, States should ensure equal conditions for independent candidates to stand for elections and not impose unreasonable requirements on their candidacies.

36. States should remove unreasonable barriers to voter registration, including onerous or burdensome administrative requirements for accessing the necessary documentation to exercise the right to vote, particularly for women, minorities, indigenous peoples, those living in remote areas and internally displaced persons.

37. States should take measures to protect the safety of candidates, particularly women candidates, who are at risk of violence and intimidation, including gender-based violence, during the electoral process.

38. States should amend their national legal provisions that limit the right to vote on grounds of legal capacity and adopt the legal measures necessary to ensure that all persons with disabilities, especially those with intellectual or psychosocial disabilities, may exercise their right to vote.

39. States should take measures to ensure full accessibility for persons with disabilities in all aspects of the electoral process by, inter alia:

(a) Guaranteeing the free expression of the will of persons with disabilities as electors and to that end, for those who cannot exercise their right to vote independently, and at their request, allowing assistance in voting by a person of their own choice;

(b) Ensuring accessible voting procedures and facilities, and when full accessibility cannot be guaranteed, providing reasonable accommodation in order to ensure that persons with disabilities can effectively exercise their right to vote;

(c) Providing training for electoral officials on the rights of persons with disabilities in elections;

(d) Ensuring that electoral and voting materials are appropriate, accessible to the diversity of persons with disabilities and easy to understand and use.

40. States should consider aligning the minimum voting age and the minimum age of eligibility to stand for elections, to encourage the political participation of young people.

41. States should not exclude persons in pretrial detention from exercising the right to vote, as a corollary of the right to be presumed innocent until proven guilty according to law.

42. States should not impose automatic blanket bans on the right to vote for persons serving or having completed a custodial sentence, which do not take into account the nature and gravity of the criminal offence or the length of the sentence.

43. When appropriate, States should remove the practical obstacles that may hinder the exercise of the right to vote by persons serving a custodial sentence.

44. States should facilitate the independent scrutiny of voting and counting, including by providing access to places of voting, counting and tabulation of results.

45. Electoral management bodies should be able to function independently and impartially, irrespective of their composition. Such bodies should be open, transparent and maximally consultative in their decision-making and provide access to relevant information for all stakeholders.

46. States should ensure that their legal framework provides for the right of candidates to effectively challenge elections results and for remedies that are prompt, adequate and effective, and enforceable within the context of the electoral calendar.

47. States should consider, on the basis of appropriate national consultations and consultations with host States, and taking into consideration all relevant factors, allowing citizens who are abroad or temporarily out of the country to exercise their right to vote.

48. States should consider extending the right to vote to non-citizens after a period of lawful and habitual, long-term residence, at least for local elections.

B. Participation in non-electoral contexts

49. In its general comment No. 25 (1996), the Human Rights Committee states that the conduct of public affairs is a broad concept that covers all aspects of public administration,

and the formulation and implementation of policy at international, national, regional and local levels. In that same general comment, the Committee also recognizes the right to participate directly in the conduct of public affairs.

50. There are several ways in which the right of direct participation in the conduct of public affairs can be exercised. Direct participation may take place when, for example, rights holders choose or change their constitutions or decide public issues through a referendum.

51. In general comment No. 25, the Human Rights Committee recognizes that direct participation is engaged in by taking part in popular assemblies which have the power to make decisions about local issues or about the affairs of a particular community, and in bodies established in consultation with government. In addition, participation in the conduct of public affairs can be realized by exerting influence through public debate and dialogue with elected representatives or through the capacity of rights holders to organize themselves.

52. The consultation process conducted in preparation for the present draft guidelines revealed that a number of direct participation initiatives, which contribute to and complement participation through elected representatives, are being implemented around the world.

53. Participation in decision-making processes may happen at different levels, from provision of information, through consultation and dialogue, to partnership or co-drafting. These levels relate to the degree of involvement or the "intensity" of participation of rights holders in the different steps of the decision-making process (i.e., agenda setting, drafting, decision-making, implementation, monitoring and reformulation).

54. Modalities of participation, namely, the tools to facilitate participation, such as websites, campaigns, multi-stakeholder committees, public hearings, conferences, consultations and working groups, may vary in function of the level of participation and the step of the decision-making process. While participation should be secured at all stages of decision-making, no specific set of modalities can be recommended in all contexts.

55. The following recommendations provide States with some guidance on how to ensure that rights holders can participate and exercise a meaningful influence in decision-making that may affect them.

Practical recommendations

(a) Institutional framework to ensure participation in the decision-making of public authorities

56. **Formal permanent structures should be developed to ensure that participation in decision-making processes is widely understood, accepted and routinely realized by both public authorities and rights holders. Such structures may include a coordinating body for participation in the Government, participation coordinators or facilitators in ministries, joint public-civil society councils, committees or working groups and other bodies, or framework agreements between public authorities and civil society actors to support participation.**

57. **Formal participation structures should be accessible to and inclusive of individuals and groups that are marginalized or discriminated against, including those from disadvantaged socioeconomic backgrounds, in particular women and girls. Specific permanent mechanisms for the participation of groups that have been historically excluded, or whose views and needs have been inadequately addressed in decision-making processes, such as indigenous peoples, minorities, and persons with disabilities, should be developed.**

58. **To ensure that these structures and mechanisms provide meaningful opportunities for participation, they should, at minimum:**

(a) **Be co-designed with relevant rights-holders;**

(b) **Impartially channel the views of the rights holders concerned into actual decision-making processes;**

(c) **Be provided with an adequate budget and human resources with expertise on the different groups for which participation needs to be encouraged and enabled;**

(d) **Be accessible, inclusive, gender-responsive and representative.**

59. **When decision-making processes may have an impact on children, States should ensure that the right of children to express their views freely and to be heard is guaranteed, including by establishing child-friendly, age-appropriate, gender-sensitive, inclusive and safe mechanisms for their meaningful engagement.**

60. **In peace processes and post-conflict and humanitarian situations, States should consider establishing formal structures for the participation of those individuals and groups that are or have been most affected by the conflict, such as children, young people, minorities, persons with disabilities, internally displaced persons, refugees and women and girls, in the development, implementation and monitoring of all relevant legislation, policies, services and programmes. Any such structures should be designed to give effect to the right of those individuals to make a free and informed choice on sustainable solutions concerning them.**

61. **The institutional framework for participation should make it possible, at all times, to create and use new modalities of participation, including through the use of ICT.**

62. **The performance of participatory frameworks, including structures and procedures, should be regularly evaluated and assessed in order to adjust and improve them and build in innovative ways of and opportunities for participation, on the basis of the needs of affected rights holders.**

(b) Measures to ensure meaningful participation at different stages of decision-making

63. **The following recommendations provide guidance for the relevant public authorities of States on ensuring meaningful participation before, during and after decision-making.**

Participation before decision-making

64. **Rights holders should be given the opportunity to participate in shaping the agenda of decision-making processes in order to ensure that their priorities and needs are included in the identification of the subject matter and content for discussion. This can be done, for example, through online consultations, public hearings or forums, or working groups or committees composed of representatives of public authorities and members of the society. Where working groups or committees are established, the relevant public authorities should adopt transparent and inclusive criteria and processes for the representation of members of disadvantaged groups.**

65. **Elected representatives should play a critical role in supporting these processes, including through their participation and their representation of the constituencies to which they are accountable.**

66. **Rights holders who are directly or likely to be affected by, or who may have an interest in, a proposed project, plan, programme, law or policy should be identified and notified. Notification should be provided to all such rights holders in a timely, adequate and effective manner. In addition, the participation of any other rights holders wishing to participate should be facilitated. When decisions have countrywide or very widespread impact, for example during constitution-making and reform processes, everyone should be identified as potentially affected.**

67. **Information regarding the decision-making process should contain clear, realistic and practical goals in order to manage the expectations of those participating. Information about the process should include, as a minimum, the following elements:**

(a) **The type or nature of the decision under consideration. This includes clarity of the subject matter, information on the rationale behind the decisions to be made and the kind of decision(s) that should be taken at each stage of the process;**

(b) **The range of options to be discussed and decided at each stage, including problems, alternatives and/or solutions, and the possible impact of their outcomes;**

(c) **The timelines for participation at each stage of the process, which should be adjusted depending on the specific circumstances (e.g., according to the complexity of the issue at stake or the number of rights holders affected by the decision) and should provide sufficient opportunity for rights holders to properly prepare and submit constructive contributions;**

(d) **The identification of public officials and institutions involved and their capacity to deliver (i.e., their respective roles and various tasks at each stage of the process);**

(e) **The identification of the public authority responsible for making the decision;**

(f) **The procedures envisioned for the participation of rights holders, including information regarding:**

(i) **The date on which the procedure will begin and end;**

(ii) **The time and venue, including information on accessible infrastructure, of any envisaged participatory processes;**

(iii) **The modalities and rules of the conduct of the participatory process;**

(iv) **The public authority or official body to which comments or questions can be addressed or from which additional information on the decision under consideration can be requested, and the procedure and time frame for the transmittal of their response.**

68. **Rights holders should be able to access adequate, accessible and necessary information as soon as it is known, to allow them to prepare to participate effectively, in accordance with the principle of maximum disclosure.**[4]

69. **Relevant information should be proactively disseminated by making it available in a manner appropriate to local conditions and taking account of the special needs of individuals and groups that are marginalized or discriminated against.**[5] **This should include:**

(a) **Providing information free of charge or at reasonable cost and without undue restrictions on its reproduction and use both offline and online;**

(b) **Providing both technical information for experts and non-technical summaries for the general public;**

(c) **Disseminating information in clear, usable, accessible, age-appropriate and culturally appropriate formats, and in local languages, including indigenous and minority languages. This may entail publications in Braille, easy-to-read and plain language formats;**

(d) **Disseminating the relevant information as widely as possible, including through the website of the relevant public authority or authorities if that method is effective. Other dissemination channels may include local print media, posters, billboards, mass media (television or radio) and other online sources;**

(e) **Considering adopting the method of individual notification where appropriate and with due regard to personal data protection.**

[4] See para. 22 above.

[5] See para. 20 above.

Participation during decision-making

70. Rights holders should be able to participate in the decision-making process from an early stage, when all options are still open. This entails, for example, that public authorities refrain from taking any formal, irreversible decisions prior to the commencement of the process. It also requires that no steps be taken that would undermine public participation in practice, for example large investments in the direction of one option, or commitments to a certain outcome, including those agreed with another organ of the State, a non-State actor or another State.

71. Any revised, new or updated draft versions of documents relating to the decision(s) should be made public as soon as they are available.

72. Sufficient time for rights holders to prepare and make their contributions during decision-making processes should be provided. This entails, for example, ensuring that opportunities to participate do not exclusively, or in large part, fall during periods of public life traditionally considered as holidays, such as religious festivals, national holidays or major vacation periods in the State concerned.

73. Rights holders should be entitled to submit any information, analyses and opinions directly to the relevant public authority, either electronically or in paper form. Opportunities to provide comments should be easily accessible, free of charge and without excessive formalities.

74. The possibility to submit written comments through online tools should be combined with opportunities for in-person participation. To this purpose, States should consider establishing, for example, multi-stakeholder committees and/or advisory bodies and organizing expert seminars and/or panels and open plenary sessions to allow meaningful participation in all stages of public decision-making processes. Where such structures are established, transparent and inclusive criteria and processes for the representation of members of disadvantaged groups should be adopted.

75. Participatory events should be free of charge and held in venues that are neutral and easily accessible, including for persons with disabilities and older persons. States should also provide reasonable accommodation, as needed. Depending on local circumstances and the decision concerned, in-person participation may be supplemented with online tools, where relevant.

76. The weight given to contributions received through online platforms should be equal to that given to comments received offline.

77. The technical capacities and expertise of public officials responsible for the conduct of participatory processes should be strengthened, including in the areas of information collection, meeting facilitation, strategy formulation, action planning and reporting on outcomes of the decision-making process.

78. Appropriate data collection and management systems for collecting, analysing, deleting and archiving inputs received both online and offline should be developed, and transparency in how those systems are designed and used, and how data is processed and retained, should be ensured.

Participation after decision-making

79. The outcome of the participation process should be disseminated in a timely, comprehensive and transparent manner, through appropriate offline and online means. In addition, the following should be provided:

(a) Information regarding the grounds and reasons underlying the decisions;

(b) Feedback on how the contributions of rights holders have been taken into account or used, what was incorporated, what was left out and the reasons why. For example, a report can be published, together with the decision(s) made, which may include the nature and number of inputs received and provide evidence of how

participation was taken into account. This requires that adequate time be allocated between the end of the participatory process and the taking of the final decision.

(c) Information on available procedures to allow rights holders to take appropriate administrative and judicial actions with regard to access to review mechanisms.

80. Opportunities should be available for those who participated to assess the participatory process in order to document lessons learned for future improvement. To this end, relevant public authorities should consider conducting surveys or focus group discussions, including through the creation of dedicated websites, by phone or in person, in order to collect information on various aspects of participation at all stages of the decision-making process. States should ensure that the information collected in this context is representative of the diversity of all rights holders who participated.

81. In order to allow meaningful participation in assessing the decision-making process, States should provide information on the process, including the following:

(a) The number, and format, of communications used to notify rights holders;

(b) The resources allocated to the process;

(c) The number of people who participated at the various stages of the decision-making process;

(d) Disaggregated data on those participating, with due regard to personal data protection;

(e) Participation modalities;

(f) Accessibility and reasonable accommodation measures.

82. Participation in the implementation of decisions made should be ensured. Accessible and user-friendly information should proactively be disclosed at all implementation stages. This may be achieved, for example, through the creation of dedicated websites and/or email alerts and the organization of events, conferences, forums or seminars.

83. When appropriate, States should consider establishing strategic partnerships with civil society actors, while respecting their independence, to strengthen participation in the implementation of decisions made.

84. Participation and transparency in monitoring the implementation of decisions made should be ensured. Appropriate frameworks should be developed to evaluate States' performance in relation to the implementation of relevant laws, policies, projects or programmes. The frameworks should include objective, measurable and time-bound performance indicators, including on rights holders' participation in tracking implementation activities. Progress reports on implementation should be made public and disseminated widely, including through the use of ICTs and the organization of conferences, forums and seminars.

85. Rights holders should have access to key information to allow effective participation in monitoring and evaluating progress in the implementation of decisions. Information on the implementation process should include the following:

(a) The identification of the authority in charge of the implementation process and its contacts;

(b) The resources, financial and non-financial, to be used for implementation;

(c) Whether the implementation involves a public-private partnership, and if such is the case, all information on the role and contacts of the private actor(s) involved;

(d) Opportunities for participation in the implementation process.

86. Participation in monitoring and evaluation should be considered as a continuum and include the use of social accountability tools, such as social audits, public expenditure tracking surveys, community score cards, social audits, transparency portals, community media and public hearings.

Information and communications technology to strengthen equal and meaningful participation

87. ICT participation tools should be human rights compliant by design, and participation through the use of ICTs should follow the same principles of offline participation.[6] This entails ensuring that the development and deployment of ICTs, including new data-driven technologies for participation, is guided and regulated by international human rights law, with particular regard to gender equality, in order to avoid any adverse human rights impact on individuals and groups that are marginalized or discriminated against, whether the impact is intentional or unintentional.

88. Effective measures to close the digital divides should be developed and implemented, especially for women, persons with disabilities, older persons, persons living in rural areas and indigenous peoples. In this context, proactive measures should be adopted to make ICT widely available, accessible and affordable, including in remote or rural areas, and without discrimination of any kind. This should include, for example, supporting the reduction and, as far as possible, the removal of social, financial and technological barriers restricting public access to the Internet, such as high connection costs and poor connectivity.

89. The involvement of different stakeholders, including civil society actors and business enterprises, in the design, development and use of ICTs for participation should be promoted. In this context, due regard should be given to the Guiding Principles on Business and Human Rights.

90. ICTs should be used to create spaces and opportunities for rights holders to participate meaningfully in a variety of activities that extend beyond communication and information-sharing. Technology should provide real opportunities to influence decision-making processes, for example with regard to submitting, and commenting and voting on, legislative and policy proposals. Where appropriate, States should consider providing additional, complementary offline opportunities for participation.

91. Existing ICT tools for participation should be translated into multiple local languages, including languages spoken by minorities and indigenous peoples, and should ensure their accessibility for persons with disabilities.

92. Media education and digital literacy programmes should be included in formal and non-formal curricula to allow meaningful participation online. For example, these programmes should focus, where relevant, on technical fundamentals of the Internet and develop critical thinking to help rights holders to identify and evaluate information and content from different sources.

93. Media and ICT education curricula should address issues related to hate speech, xenophobia, sexism and harmful gender stereotypes, racism and any other form of intolerance as factors that further exacerbate the marginalization and exclusion of some individuals and groups from public life. The role of civil society actors, including the media, in delivering positive counter-narratives online, including against hate speech, should be supported.

94. Comprehensive and forward-looking media and ICT literacy training programmes for public officials responsible for implementing participatory processes should be developed and delivered in order to take full advantage of the potential of ICTs.

[6] See chap. II.

C. Right to participate in public affairs at the supranational level, including in international organizations

95. The Human Rights Committee, in its general comment No. 25, recognized that the right to take part in the conduct of public affairs also covers the formulation and implementation of policy at the international and regional levels. Despite the importance of participation at the international level, the workings of international organizations continue to be opaque for most people.[7]

96. Decision-making at the regional and international levels may have a significant effect on the realization of human rights, as such decision-making has an impact on national legislation, policies and practices. It is thus necessary that such decisions are made in a transparent and accountable manner, with the participation of those who will be affected by those decisions, and in an environment respectful of public freedoms, which are fundamental and should also be protected at the international level. Civil society actors choosing to participate in regional and international meetings must be safe and not be subject to acts of reprisal.

97. Those who participate at the supranational level often bring local and national concerns to the attention of the international community, thus connecting the international and local levels. For example, civil society actors have been instrumental in raising awareness at the regional and international levels of the rights of groups that are marginalized or discriminated against, and in empowering and giving voice to them. Such participation has also contributed to challenging social norms and the organizational culture of regional and international organizations.

98. The forms and modalities of the participation of rights holders at the international level might vary according to the format and rules of the international forum concerned, and the nature and phase of the process. Participation may be ensured through different means, including the granting of observer, consultative or participatory status; advisory committees open to relevant stakeholders; forums and dialogues; webcasting of events; and general calls for comments. For rights holders to participate effectively at the international level, access to information is indispensable.

Practical recommendations

99. **States should respect, protect and facilitate the rights to freedom of expression and to freedom of peaceful assembly and of association in connection with the exercise of the right to participate at the international and regional levels.**

100. **Participation of civil society actors in meetings of international organizations, mechanisms and other forums, at all relevant stages of a decision-making process, should be allowed and proactively encouraged.**

101. **Access to international and regional forums should be provided without discrimination of any kind.**

102. **States should end all acts of intimidation and reprisals against civil society actors engaging or seeking to engage with international forums, and/or participating in any related event. When acts of intimidation or reprisals take place, States should investigate all allegations, provide effective remedies and adopt and implement preventive measures to prevent their recurrence Understanding and addressing gender-specific forms of reprisal is key in this context.**

103. **States should establish objective, consistent and transparent criteria for expeditiously granting to civil society organizations observer, consultative or participatory status in international organizations. Organizations having their**

[7] In the context of the present draft guidelines, the terms "international organizations", "participation at the international level" and "international meetings and forums" should be understood as including the regional level.

requests rejected should be provided with the reasons and a means to appeal to a higher or different body.

104. **States should refrain from unduly preventing civil society actors from obtaining accreditation with international organizations, arbitrarily withdrawing accreditation or regularly deferring examination of requests for accreditation.**

105. **Permanent structures for the continuous participation of civil society actors in international forums should be established, for example through the creation of civil society platforms. These structures should be created through impartial, non-discriminatory, transparent and participatory processes, and should be particularly accessible to and inclusive of individuals and groups facing discrimination.**

106. **The use of innovative, cost-efficient and practical approaches, including through the use of ICTs (e.g., webcasting, videoconferencing and other online tools), should be encouraged in order to foster greater and more diverse participation of civil society actors at the international level.**

107. **States should facilitate the timely issuance of visas for those wishing to participate in international forums.**

108. **Funds should be made available to facilitate meaningful and equal participation in international forums, particularly by women human rights defenders and small, community-based civil society organizations.**

109. **The capacity of rights holders to participate meaningfully in international forums should be strengthened, in particular among those who are less proficient in procedures governing participation at the international level, such as grass-roots and local civil society organizations working with individuals or groups that are marginalized or discriminated against.**

110. **States should encourage international forums to develop and make widely available a clear and transparent set of policies and procedures on participation in order to make access more consistent and reliable. Criteria for accreditation to meetings should be objective and broad, and registration procedures should be easy to understand and accessible.**

111. **Participation of rights holders in meetings in international forums should include access to relevant information, such as documents, drafts for comments and websites relevant to the decision-making process, the possibility to circulate written statements and to speak at meetings, without prejudice to the ability of international forums to prioritize their business and apply their rules of procedure. Any criteria for assessing the appropriateness of materials must be made public and any objection process should be transparent and allow sufficient time for the affected civil society organization to respond.**

112. **States should request international forums to proactively make available information related to decision-making processes, through the use of ICTs or other appropriate means, in a timely manner and in all official languages of the international organization or forum concerned. Access-to-information policies for international organizations should be adopted through resolutions and other governance mechanisms and be in line with international human rights law.**

113. **The designation of information officers or contact persons in international organizations charged with facilitating the flow of information to rights holders should be encouraged.**

114. **States should effectively disseminate, in accessible formats and local languages, the outcomes of decisions made at international forums, including recommendations emanating from United Nations bodies and entities involved in monitoring the implementation of States' obligations under international human rights law.**